

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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|                                   | ) |                       |
| <b>MARTIN STEPHEN GOTTESFELD,</b> | ) |                       |
|                                   | ) |                       |
| <b>Petitioner,</b>                | ) | <b>Civil Case No.</b> |
|                                   | ) | <b>18-10376-FDS</b>   |
| <b>v.</b>                         | ) |                       |
|                                   | ) |                       |
| <b>JOSEPH D. MCDONALD, JR.,</b>   | ) |                       |
|                                   | ) |                       |
| <b>Respondent.</b>                | ) |                       |
|                                   | ) |                       |

## ORDER OF REASSIGNMENT

**SAYLOR, J.**

Petitioner Martin Stephen Gottesfeld filed a habeas petition on February 26, 2018. That case, 18-cv-10376, was randomly assigned to the undersigned judge. Gottesfeld is a criminal defendant in another case in this District, *United States v. Gottesfeld*, 16-cr-10305, which is pending before Judge Gorton. For the reasons given below, the case will be reassigned to Judge Gorton.

## I. Facts

A criminal complaint was filed against Gottesfeld on February 16, 2016, charging him with conspiracy to intentionally cause damage to protected computers, in violation of 18 U.S.C. §§ 371, 1030(a)(5)(A), and 1030(c)(4)(B). (No. 16-cr-10305, ECF 3). The complaint was based on the affidavit of an FBI agent, who had conducted a search of Gottesfeld's apartment, among other things. (*Id.*). Gottesfeld allegedly orchestrated a distributed-denial-of-service attack on a server belonging to Boston Children's Hospital in order to force the hospital to release a particular teenage patient who had been placed in state custody because of concerns that her

parents were interfering with her treatment. (*Id.*). He was arrested on February 17, 2016, in the Southern District of Florida, after being rescued at sea off the coast of Cuba by a Disney cruise ship. (No. 16-cr-10305, ECF 25). Magistrate Judge Bowler ordered him detained prior to trial pursuant to 18 U.S.C. § 3142 on July 27, 2016. (*Id.*). He was formally indicted on October 19, 2016. (No. 16-cr-10305, ECF 28). He has been in custody ever since. It does not appear that he appealed the detention order, although he filed one motion for temporary release to attend his father's memorial service, which was denied. (No. 16-cr-10305, ECF 54).

The habeas petition requests that indictment be dismissed with prejudice or that the detention order be vacated and the terms of bail set. (No. 18-cv-10376, ECF 1 at 7). The petition alleges five claims: (1) that he was not indicted within 30 days of his arrest, initial appearance, or detention order; (2) that the magistrate judge who issued the search warrant and detention order was biased because of her and her husband's connection to the alleged victims; (3) that the government lied on its applications for the criminal complaint, search warrant, and surveillance of his phone; (4) that the statute under which he is charged under is unconstitutionally vague; and (5) that the charges against him attempt to criminalize protected speech. (*Id.* at 6-8).

## **II. Analysis**

The general practice in this District is to assign all federal habeas cases to the judge who handled the underlying criminal case, assuming that judge is still on the bench. Normally, of course, such petitions are filed after the conclusion of criminal proceedings, including any appeal.

The petition here challenges the authority of his detention in relation to the criminal charges in an ongoing matter, 16-cr-10305-NMG. He essentially contends that the indictment should be dismissed as legally defective and that his order of detention should be reversed.

Either of those remedies is more appropriately sought, if at all, from the judge handling the criminal case. Otherwise, the judge presiding over the petition would be put in the position of collaterally reviewing legal rulings in proceedings before another judge—or, indeed, making such rulings before that judge even has an opportunity to rule. The proper course is to transfer the habeas petition to Judge Gorton for him to review and address. Judge Gorton may, as appropriate, dismiss the petition or take such other steps as may be proper under the circumstances. Accordingly, the case will be transferred to Judge Gorton.

**III. Conclusion**

For the foregoing reasons, this matter is hereby TRANSFERRED to Judge Gorton for all further proceedings.

**So Ordered.**

Dated: March 7, 2018

/s/ F. Dennis Saylor  
F. Dennis Saylor, IV  
United States District Judge